

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

OCT - 4 2005

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMOTHY W. DAKE, JARAD BOHART NIEMI,
DONALD L. HUGHES, JEFFREY J. KESTER,
DONALD B. COMPTON, JONATHAN J. CALDERAS,
RICHARD G. SCHAFERMEYER, and KEVIN P. CHRISTMAS

Application No. 09/853,391

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on June 21, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

On March 22, 2004, the examiner mailed an examiner's answer. There is no clear indication that an appeal conference was held because the examiner's answer contains only the typed name of the conferee (i.e., Glen Caldarola). No signature or initialing by

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the conferee is present. The Manual of Patent Examining Procedures (MPEP) § 1208 states:

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.

Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) signature or initial from examiner, Glen Caldarola, indicating proof of conference; 2) notifying the appellants, in writing, that the appeal conference was held; and 3) for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

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By: 

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